STATE OF NEW YORK

6766--A

2023-2024 Regular Sessions

IN ASSEMBLY

May 8, 2023

Introduced by M. of A. PAULIN, SEPTIMO, McDONALD -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to setting reimbursement rates for essential safety net hospitals

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 2807-c of the public health law is amended by adding a new subdivision 34-a to read as follows:

34-a. Health equity stabilization and transformation act. (a) For the purposes of this subdivision, "essential safety net hospital" shall mean:

(i) Any hospital eligible for participation in the directed payment template (DPT) preprint submitted by the state to the Centers for Medicaid and Medicare Services for fiscal year two thousand twenty-three;

(ii) Any non-state public hospital operated by a county, municipality or public benefit corporation; or

(iii) is an acute children's hospital licensed by the department primarily for the provision of pediatric and neonatal services for which a discrete institutional cost report was filed for the past three calendar years, and which has medicaid discharges in excess of fifty percent of it's total discharges.

(iv) Any voluntary hospital certified under this article that is a general hospital, which, in any of the previous three calendar years, has met the following criteria:

(A) at least thirty-six percent of inpatient volumes are associated with Medicaid and uninsured individuals;

(B) at least thirty-six percent of outpatient volumes are associated with Medicaid and uninsured individuals; and

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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(C) no more than twenty percent of inpatient volumes are associated with commercially insured individuals.

(b) For purposes of this subdivision, "essential safety net hospital" shall not include hospitals that are (i) public hospitals operated by the state; (ii) federally designated as a critical access hospital; (iii) federally designated as a sole community hospital; or (iv) a specialty hospital.

(c) For purposes of this subdivision, "health care services" shall include, but is not limited to, acute inpatient discharges, inpatient psychiatric days, ambulatory surgery visits, emergency room visits, and outpatient clinic services.

(d) For essential safety net hospitals that qualify pursuant to paragraph (a) of this subdivision, the commissioner shall, subject to federal approval, require inpatient hospital rates and hospital outpatient rates paid by the medical assistance program for services provided to patients enrolled in Medicaid managed care to reimburse the entire class of essential safety net hospitals in each geographic region at no less than regional average commercial rates for health care services provided by all hospitals in the same geographic region, as reported in a benchmarking database maintained by a nonprofit organization specified by the commissioner. Such nonprofit organization shall not be affiliated with an insurer, a corporation subject to article forty-three of the insurance law, a municipal cooperative health benefit plan certified pursuant to article forty-seven of the insurance law, a health maintenance organization certified pursuant to article forty-four of this chapter, or a provider licensed under this chapter. For purposes of this paragraph:

(i) The commissioner shall establish geographic regions within the state for establishing the regional average commercial rate. One region shall consist of the average commercial rate for services provided in the following counties: Bronx, Kings, New York, Queens, and Richmond.

(ii) The regional average commercial rate for health care services shall reflect the most recent twelve-month period in which data on commercial rates is available, and shall be updated no less frequently than every two years, provided that the average commercial rate shall be trended forward to adjust for inflation on an annual basis between such updates. Such adjustment shall be made by a federally recognized metric as determined by the commissioner.

(iii) The commissioner shall ensure that all essential safety net hospitals shall receive the rates defined in this paragraph. The commissioner shall not exclude any qualifying essential safety net hospitals, including public hospitals.

(e) Managed care organizations shall provide written certification to the commissioner on a quarterly basis that all payments to essential safety net hospitals are made in compliance with this subdivision and in accordance with section three thousand two hundred twenty-four-a of the insurance law.

(f) Any hospital qualifying under this subdivision shall annually report to the department demonstrating that it meets the criteria as an essential safety net hospital. The report shall also include information to demonstrate how increased reimbursement has been utilized to improve patient access, patient quality and patient experience. Such report shall also include specific efforts made to improve maternal health.

(g) The commissioner shall make any quality data reported by essential safety net hospitals pursuant to paragraph (f) of this subdivision publicly available in a manner that is useful for patients to make qual-

ity determinations. Such information shall be posted on the department's website.

(h) No later than September first, two thousand twenty-three, the commissioner shall provide the governor, the temporary president of the senate and the speaker of the assembly with a report on the feasibility of obtaining a state plan amendment to modify the Medicaid fee-for-service rates for health care services in the manner prescribed in this subdivision. The report shall also be posted on the department's website.

§ 2. This act shall take effect July 1, 2023. Effective immediately the commissioner of health shall make such rules and regulations, and seek any federal approvals necessary for the implementation of this act on its effective date.